

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
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2005 JAN -7 P 1:38  
DISTRICT OF MASS.

UNITED STATES

v.

DOUGLAS BANNERMAN, et al.,

Defendant

CRIM. NO. 03-10370-DPW

**DEFENDANT GARY NEWELL'S ASSENTED TO  
MOTION TO CONTINUE PRETRIAL CONFERENCE  
AND ARRAIGNMENT ON SUPERSEDING INDICTMENT**

Now comes the defendant Gary Newell in the above-captioned case and respectfully requests that the Court continue the pretrial conference and his arraignment on the superseding indictment, both of which now have been scheduled for January 14, 2005. In support of his motion, the defendant states the following:

The Pretrial Conference originally was scheduled for January 7, 2005, a date when undersigned counsel was available to appear. On January 3, 2005, the parties were notified that the Pretrial Conference would be postponed to January 14, 2005. At that time, counsel had prepaid reservations for a family vacation out of state scheduled to begin on January 13 through January 17, 2005, Martin Luther King's Birthday. Defense counsel immediately

contacted Judge Woodlock's clerk to notify the Court of the conflict.

On January 5, 2004, the parties were notified that the superseding indictment in the case had been unsealed and that the defendants were scheduled for arraignment on January 14, 2005 at 10:00 A.M. before Magistrate Judge Robert B. Collings. At the final status conference before Magistrate Judge Collings held on December 1, 2004, the parties discussed the superseding indictment, and the fact that it remained sealed such that no arraignment date could be set. At that time, undersigned counsel reminded the Court that Mr. Newell was on pretrial release in his home state of Oregon. Upon memory and belief, counsel requested at least 14 days notice of the arraignment date so that Mr. Newell could secure an airplane ticket back to Boston at a reasonable rate.

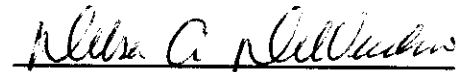
Defense counsel notified AUSA Rachel Hershfang that she was filing this motion and was advised that the Government assents to it.

For these reasons, the defendant and his attorney respectfully request that the Court reschedule his arraignment and pretrial conference. Counsel will be available for a Pretrial Conference any date after January 17, 2004. Given that the Court has determined that Mr. Newell is indigent, defense counsel suggests that it would be most economical for him to be

arraigned on the Superseding Indictment on the date to be set for hearing on his evidentiary motions.

Dated: January 6, 2005

Respectfully submitted,  
Gary Newell,  
By his attorney,

  
Debra A. DelVecchio  
B.B.O. No. 542139  
DEL VECCHIO & HOUSEMAN  
15 Front Street  
Salem, MA 01970  
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing motion to continue pretrial conference and arraignment on Superseding Indictment were sent to Assistant District Attorney Rachel E. Hershsfang and all defense counsel of record by FAX and first class mail on January 6, 2005.

  
Debra A. DelVecchio